

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

FREEDOM FOUNDATION, a
Washington non-profit corporation,

Plaintiff,

v.

JOEL SACKS, in his official capacity as
Director of Washington State
Department of Labor & Industries;
HEATHER NORMOYLE, in her
individual capacity; and ELIZABETH
SMITH, in her individual capacity,

Defendant.

CASE NO. 3:19-cv-05937-RBL

ORDER

THIS MATTER is before the Court on Plaintiff Freedom Foundation's Motion to Compel [Dkt. # 33] documents regarding draft revisions to Defendant L&I's Policy 5.04. The Court ordered Defendant L&I to produce such documents for *in camera* review to determine relevance and the applicability of the deliberative process privilege. Dkt. # 51.

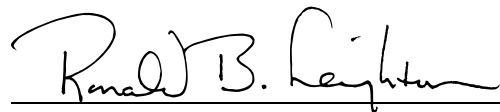
Having reviewed the documents, the Court concludes that they are not relevant to Freedom Foundation's claims. The revised draft of Policy 5.04 does not, as the Court theorized in its Order, include changes that contradict what L&I claims was required by Policy 5.04 all along. Consequently, the draft revisions and accompanying documents do not shed light on the

1 interpretation or application of Policy 5.04 when Freedom Foundation visited the L&I facility in
2 June 2019—the event underling its claims. The Court thus need not consider the deliberative
3 process privilege.

4 The Court further concludes that the communications at FFLNI-019972-73, though
5 relevant, are protected work product because they were prepared in anticipation of litigation.
6 Fed. R. Civ. P. 26(b)(3). Freedom Foundation’s Motion to Compel [Dkt. # 33] is DENIED with
7 respect to the documents related to draft revisions to Policy 5.04.

8 IT IS SO ORDERED.

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10 Dated this 26th day of August, 2020.

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13 Ronald B. Leighton
14 United States District Judge
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